

On November 2, 2004, over fifty percent of voters in the City of San Diego approved Proposition F – the Strong Mayor form of government, also referred to as the Mayor – Council form of government. The voters approved the Strong Mayor form of government for a trial period beginning January 1, 2006 and ending December 31, 2010.

In response to concerns regarding the implementation of the Strong Mayor form of government, the Chamber's Legal Committee formed a subcommittee in March of this year to review amendments to the City Charter passed by voters as Proposition F – Mayor-Council form of government. On September 28<sup>th</sup>, the San Diego Regional Chamber of Commerce will be making the following recommendations, among others, to the City of San Diego's Transition Committee on the Strong Mayor form of government.

## **1. Review of Code for Conflicts.**

### ***Background and Former Law:***

There were few known conflicts between the City Charter and the Administrative Code.

### ***New Law:***

The Charter Amendment creates conflicts between new amendment provisions and the existing Code. For example:

- Former Charter § 13 provided specific requirements as to Council meetings, notices, and procedures. Former Charter § 13 has been deleted, and not replaced. Code § 22.0101 contemplates the existence of Charter § 13 but does not replace the deleted Charter provisions.
- Section 22.0208, still contemplates the Council will appoint an interim Manager if necessary. This must be revised to state the Mayor will make this appointment.
- The Charter at § 30 changes authority over unclassified employees from the Manager to the Mayor. This is in conflict with the Code at § 22.0202 which contemplates this authority being held by the Manager.

### ***Analysis:***

The deletion of Charter § 13 without replacement leaves undue discretion to the Council as to docketing, noticing and meetings.

### ***Chamber Recommendation:***

As an interim measure, an ordinance should be adopted to clarify docket, notice and meeting procedures. Long-term, the Charter should be amended to address this issue at the June 2006 election. Overall, a comprehensive review of the City Administrative Code is required and should be undertaken by the City Attorney to resolve conflicts.

## **2. Term of the Presiding Officer.**

### ***Background and Former Law:***

The Mayor presided over Council meetings and set the docket.

### ***New Law:***

The Mayor may attend and speak at Council meetings, but does not preside over them, or set the agenda. Those are now the tasks of the “Presiding Officer,” which is one of the eight Council members selected from among them. The Charter Amendment does not specify the term of the Presiding Officer or how the position is selected.

### ***Analysis:***

The Council committee has decided for the Presiding Officer to hold a one-year term, to be elected annually by Council, and not to rotate automatically.

### ***Chamber Recommendation:***

The Chamber recommends that the Presiding Officer hold a two-year term, to be elected by Council and the Presiding Officer should not be allowed to serve two consecutive terms.

## **3. Veto Override.**

### ***Background and Former Law:***

The Mayor held one of nine votes, and no veto power.

### ***New Law:***

Council action requires five of eight votes. The Mayor may veto most Council actions. An override also requires only five of eight votes.

### ***Analysis:***

An override by the same majority that passed the action vitiates the effect of a veto. With the Mayor having no vote in the first place, the Mayor under the so-called strong-mayor system may actually have less influence than under the current system, where the Mayor can at least vote.

### ***Chamber Recommendation:***

There should be an initiative to change the number of votes to override a Mayoral veto from a simple majority to a six of eight votes.

#### **4. Committee Structure.**

##### ***Background and Former Law:***

Committees were formed by five Council members, and required three votes to refer a matter to Council.

##### ***New Law:***

Proposition F does not address the committee structure. However the Mayor is presumably no longer eligible to sit on any committee (since the Mayor has no vote), reducing the pool of available committee members from nine to eight.

##### ***Analysis:***

The Council committee intends to form committees with less than five members. Two votes are required to refer a matter to Council without a recommendation, and three votes with a recommendation. This change may result in a greater number of items being referred to Council, and less time spent in committee.

The former committee structure already drew from only eight of the nine Council members (not the Mayor) for all committees other than the Rules Committee, and seemed to work well. The committees consisted of five members.

##### ***Chamber Recommendation:***

The Chamber recommends continuing the former committee structure. Only issues that have been fully vetted at the committee level should be moved forward to the full Council. Having five members on the committees will provide a better opportunity for full discussion of issues. If the concern is that Council Members may be burdened with too many committee assignments, that concern could be addressed by consolidating some of the committees.

#### **5. Role of the Council's Legislative Analyst.**

##### ***Background and Former Law:***

Departmental staff via the City Manager provided the analysis that accompanies Manager's Reports for items for Council action.

##### ***New Law:***

While it is anticipated that department staff will continue to provide information, analysis and staff reports under the new form of government, this will now be a function of the executive branch under the Mayor's unilateral purview. The Charter Amendment creates a "Budget Analyst" position under the direction of the Council (and not the Mayor). The Charter Amendment does not refer to or create a position of a Legislative Analyst for the

Council. The Council has tentatively decided to hire a legislative analyst under the title of “policy analyst” within the Budget Analyst Department.

***Analysis:***

Staff that reports only to either the Mayor or the Council is likely to provide reports and recommendations that align with the views of that respective body. Under the new Strong Mayor form of government, virtually all City staff report to the Mayor. In order for the Council to have access to information and analysis that is not under the influence of the Mayor, the Council will have to have staff available to it to research and provide separate reports.

The role of a separate Legislative Analyst that reports to the Council rather than the Mayor appears to be warranted. The Council’s proposed structure of staffing the legislative analyst function as a “policy analyst” in the Budget Analyst Department appears to be a work around from a deficiency in the Charter Amendment. This proposed structure is peculiar in that a budget analyst function would be expected to be a subset of a legislative analyst role, and not the other way around. The proposal at best employs an illogical organizational structure and inventive job titles, and at worst could be perceived as an attempt to circumvent the balance of power intended by the Charter Amendment.

***Chamber Recommendation:***

The Chamber recommends that if there is to be an independent legislative analyst or policy analyst position that reports to the Council rather than the Mayor, then that position should be authorized by further Charter Amendment, and not by staffing the position under the guise of someone reporting to the authorized Budget Analyst.

**6. City Agencies & Commissions.**

***Background and Former Law:***

The Mayor and Council sat ex officio as members of agencies and commissions, such as redevelopment agencies and the Housing Authority.

***New Law:***

The Charter Amendment does not address agencies and commissions. The roles of Mayor and Council are defined in the organizing documents of the respective agencies.

***Analysis:***

It is now unclear what the roles of the Mayor and Council will be in entities such as the redevelopment agencies and the Housing Authority. For example, will the Mayor have a vote as a member of the CCDC or Housing Authority, or will the non-voting Mayor and veto rules of the Charter Amendment apply?

***Chamber Recommendation:***

Once the Mayor is elected, he or she should designate a taskforce to review the documents of agencies and commissions and draft clean-up legislation. The taskforce should include members of the City Council or their designated representatives.

**7. Roles of Mayor and City Manager.**

***Background and Former Law:***

City department heads reported to the Manager, who reported to the Council as a whole. The Mayor did not have management authority over most of City staff.

***New Law:***

Department heads report directly to the Mayor. Proposition F revised the Charter by simply substituting “Mayor” for “Manager” in most instances. Existing duties specified by the Code for the Manager have either been abrogated, or are in conflict with the amended Charter. The result is there is now no explicit definition of the Manager’s duties and responsibilities.

***Analysis:***

There is nothing in the Charter Amendment to guide what will be the role of the City Manager. Most of the former mayoral candidates spoke in terms of the Manager being a COO, who will oversee City departments on a day-to-day basis while the Mayor retains hiring and firing oversight and attends to broader policy and public functions. Donna Frye has stated she would eliminate the Manager position, and form a cabinet. The fact that such diverse approaches could be considered demonstrates how little structure the Charter Amendment provides.

***Chamber Recommendation:***

The Mayoral candidates should designate representatives to discuss the roles of Mayor and City Manager. The executive branch must be represented in discussions.

**8. Mayor’s Role in Specific Legislation and Projects.**

***Background and Former Law:***

The Mayor participated as the chair of the Council, and could advocate and vote on specific legislation and projects. The Mayor could not directly influence the processing of matters by City staff, because staff reported to the Manager.

***New Law:***

Nearly all City staff report directly or indirectly to the Mayor.

***Analysis:***

There is no guidance in the Charter amendment as to how the Mayor is to interact with departments, and how political that interaction should be. The Mayor has hiring and firing authority over department heads. The Mayor could use (or abuse) his or her authority over City staff to influence the administrative and ministerial processing of projects and policies.

Should the Mayor's power be available to advance political objectives, or should it be limited in some way? For example, should the Mayor be allowed to advocate for or against specific public or private projects that are being processed by planning staff?

***Chamber Recommendation:***

There should be a more extensive review of this issue. The Chamber will be forming an ad hoc committee with representatives from its various committees, to review and provide a recommendation on this issue.